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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|-----------------------|------------------|
| 10/621,259 | 07/15/2003 | Miska Hannuksela | 944-001.082-1 | 9729 |
| 4955 | 7590 | 10/20/2006 | EXAMINER | |
| WARE FRESSOLA VAN DER SLUYS & ADOLPHSON, LLP BRADFORD GREEN, BUILDING 5 755 MAIN STREET, P O BOX 224 MONROE, CT 06468 | | | RAO, ANAND SHASHIKANT | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 2621 | |

DATE MAILED: 10/20/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|------------------------|---------------------|--|
| Office Action Summary | Application No. | Applicant(s) | |
| | 10/621,259 | HANNUKSELA ET AL. | |
| | Examiner | Art Unit | |
| | Andy S. Rao | 2621 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 24 July 2006.

2a) This action is **FINAL**. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1-24 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) Claim(s) _____ is/are allowed.

6) Claim(s) 1-24 is/are rejected.

7) Claim(s) _____ is/are objected to.

8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some * c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

| | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____. |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____. | 6) <input type="checkbox"/> Other: _____. |

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed on 7/24/06 with respect to claims 1-24 have been fully considered but they are not persuasive.
2. Claims 1-10, 14, 17, 19-22 remain rejected under 35 U.S.C. 102(b) as being anticipated by Wells et al., (US Patent: 6,310,915: hereinafter referred to as "Wells"), as was set forth in the Office Action of 4/25/06.
3. Claims 11-13, 15-16, 18 remain rejected under 35 U.S.C. 103(a) as being unpatentable over Wells et al., (US Patent: 6,310,915: hereinafter referred to as "Wells") in view of Viscito et al., (US Patent Application Publication 2004/0005007 A1: hereinafter referred to as "Viscito"), as was set forth in the Office Action 4/25/06.
4. The Applicant presents three collective arguments contending the Examiner's rejection of claims 1-22 as listed above, and further puts forth said arguments in support of newly added claims 23-24. However, after a careful consideration of the arguments presented, the Examiner must respectfully disagree for the reasons that follow, maintain the grounds of rejection versus the previously pending claims, and further apply the Wells reference as the basis for the grounds of rejection concerning the newly added claims.

After providing an interpretation of the primary reference (Amendment of 7/24/06: page 18-27; page 7, lines 1-9), the Applicants argue that since Wells discloses that the error concealment method is "optional" it fails to anticipate the claimed invention (Amendment of 7/24/06: page 7, lines 8-27). The Examiner respectfully disagrees. It is noted that the disclosed optionality is disclosed only with regards to bit rate concerns, and it is only when the bit rate

concerns take precedence is when the concealment method can be disabled. In its primary operating mode, the concealment method is always active. Note this methodology occurs with more than thus the concealment method in Wells, as bit rate concerns drive the operations of other modules in Wells (Wells: column 11, lines 5-10). Accordingly, the Examiner maintains that the feature is met.

5. Secondly, the Applicants argue that Wells fails to read upon the decoder limitation as claimed (Amendment of 7/24/06: page 7, lines 10-23). The Examiner respectfully disagrees. Firstly, claims 1 and 14 fails to even mention that the limitation “decoding...”, so the argument carries little weight with regards to claims 1-16. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., decoding) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). Additionally, it is noted that since Wells does disclose a separate decoder module and method as a part of the transcoder (Wells: column 7, lines 40-50), it sufficiently reads on claims 17-24. Accordingly, the Examiner maintains that the limitation is met.

Lastly, with regards to the secondary reference, the Applicants argue that Viscito fails to address the “decoder...” limitation (Amendment of 7/24/06: page 8, lines 5-18). The Examiner respectfully disagrees. In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). It is noted that since

Wells discloses a decoder, Viscito doesn't have to, as it meets the limitation with its combination with the primary reference.

A detailed rejection addressing newly added claims 23-24 follows.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 23-24 are rejected under 35 U.S.C. 102(b) as being anticipated by Wells et al., (hereinafter referred to as “Wells”).

Wells discloses a video decoding device (Wells: column 7, lines 35-45) for decoding a video sequence from an encoded video data stream, the video sequence comprising at least a first scene and a second scene (Wells: column 10, lines 40-56) and having a scene transition from the first scene, wherein the scene transition comprises a number of frames and the scene transition is one of a number of types (Wells: column 10, lines 65-67), said video coding device comprising: means for receiving the encoded data stream (Wells: column 7, lines 30-35); means for retrieving information from the received encoded video data stream to identify the type of scene transition (Wells: column 10, lines 60-67; column 11, lines 1-5); and means for concealing an error in a frame belonging to the transition based on the information indicative of the identified type of scene transition (Wells: column 12, lines 45-67; column 13, lines 1-30), as in claim 23.

Wells discloses video encoding device (Wells: figure 1) for encoding a video sequence into a data stream, the video sequence comprising at least a first scene and a second scene (Wells: column 13, lines 40-56) and having a scene transition from the first scene, wherein the scene transition comprises a number of frames and the scene transition is one of a number of types (Wells: column 10, lines 65-67), said video coding device comprising: means for identifying frames associated with the transition (Wells: column 10, lines 10-20); and means for providing information about the type of transition in the encoded video data stream (Wells: column 12, lines 45-67), as in claim 24.

Conclusion

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action against the newly added claims. Accordingly, **THIS ACTION IS MADE FINAL.**

See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andy S. Rao whose telephone number is (571)-272-7337. The examiner can normally be reached on Monday-Friday 8 hours.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mehrdad Dastouri can be reached on (571)-272-7418. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Andy S. Rao
Primary Examiner
Art Unit 2621

asr
October 12, 2006

ANDY RAO
EXAMINER
